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In re Application of	:	
JALALI et al.	:	
U.S. Application No. 09/581,272	:	
PCT No.: PCT/FR98/02636	:	DECISION ON PETITION
Int. Filing Date: 07 December 1998	:	UNDER 37 CFR 1.47(a)
Priority Date: 08 December 1997	:	
Atty. Docket No.: 136.147	:	
For: METHOD FOR CALCULATING THE	:	
FAST FOURIER TRANSFORM AND	:	
THE INVERSE FAST FOURIER	:	
TRANSFORM	:	

This decision is in response to "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 23 April 2002. In a decision dated 20 February 2002, the "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 10 January 2002 was dismissed without prejudice because: applicant did not provide adequate proof that the missing inventor, Al Jalali, refused to execute the application or could not be reached after diligent effort.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3), and (4) have been satisfied.

As to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application

papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application paper should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

A review of the present petition and the accompanying papers reveal that applicant has not satisfied the item (2) above. Petitioner has provided "Declaration and Statement of Facts by Christian Hamon in Re 37 CFR 1.47(a) and Section 409.03(d) MPEP" which states that "[t]wo registered letters dated September 28, 2000 and February 1, 2001 enclosing a Declaration in each, and a complete copy of the application were sent to Ali Jalali and that the declaration enclosed with the letter be signed by him and returned to me. Enclosed is a certified mail return receipt postcard showing that the February 1, 2001 letter was received." However, a copy of the certified mail return receipt postcard has not been included as an exhibit to the present petition. Additionally, no documentary evidence to support the refusal or the attempt was provided with Mr. Hamon's declaration. As stated in the previous decision, was the registered letter(s) returned as undeliverable? Was the letter(s) received by Mr. Jalali or by someone at the last known address?

In order to meet the requirements of 37 CFR 1.47(a) and Section 409.03(d) of the MPEP, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers was sent to Mr. Jalali and when such papers were sent and that Mr. Jalali has subsequently refused to execute the application. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Mr. Al Jalali under 37 CFR 1.47(a) at this time.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office.



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